

REMARKS

Claims 1-2, 4-11, 13-22, 24-33, and 35-40 remain pending in the instant application. At the outset, Applicant again gratefully acknowledges the indication of allowable subject matter in claims 24-25 and 35-36, and the comments regarding claims 19, 23, 30, and 34 with respect to Shimada '226.

In the most recent Office Action, claims 1-2, 6-7, 9-11, 15-16 and 18 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Pat. No. 5,221,415 to Albrecht, et al. (hereinafter, "Albrecht"). Claims 1-2, 6-11 and 15-18 are rejected under 35 U.S.C. § 102 (a) as allegedly anticipated by U.S. Pat. No. 5,923,637 to Shimada, et al. (hereinafter, "Shimada '637"). Claims 1-2, 6-7, 9-11, 15-16, 18-19, 22, 26-27, 29-30, 33, 37-38 and 40 are rejected under 35 U.S.C. § 102 (a) as allegedly anticipated by U.S. Pat. No. 6,201,226 to Shimada, et al. (hereinafter, "Shimada '226"). Claims 4-5 and 13-14 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Shimada '637 alone. Claims 20-21 and 31-32 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Shimada '226 in view of U.S. Pat. No. 5,187,367 to Miyazaki, et al. (hereinafter, "Miyazaki"). Claims 8, 17, 28 and 39 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Shimada '226 in view of Shimada '637. Claims 24-25 and 35-36 have once again been indicated to contain allowable subject matter. The Office Action objects to claims 1 and 10 for a minor informality.

As amended above, claims 1 and 10 restore the erroneously stricken conjunction "and" removed by the previous amendment. Favorable reconsideration and withdrawal of the objection is kindly requested.

Turning to the merits of the claims, applicant respectfully traverses the rejections, for at least the following reasons. The Office Action avers that it is necessary to define the material

filling the concave portion of the mirror to exclude atmospheric air. Applicant respectfully disagrees for at least two reasons. First, the references are silent as to the presence or absence of air in the interior of the mirror. It is only a presumption that air fills the interior of the mirror, because the device could beneficially be sealed in a vacuum, for example to reduce atmospheric resistance of moving parts, or to control the generation of dust particles which could adversely affect the device. The Office Action may not rely on supposition. See, *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

Second, to allege that ambient air, presumed present everywhere, reads on the claimed feature of a material specifically located in the concave portion of the mirror effectively reads that feature out of the claims. Such a reading would be untenable. See, *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

However, without acquiescing in the propriety of the rejection, Applicant has amended independent claims 1, 10, 19 and 30 to recite that the material filling the mirror is non-atmospheric, which is clearly derivable from the original specification. No new matter has been added. It is noted that the amendment suggested by the Examiner, i.e., that the fill material is solid, unduly limits the scope of the invention, at least because the specification recites that a resin material fills the interior portion of the mirror, which is subsequently hardened. Therefore, the fill material is not in all cases and at all times solid, though rigidity may be desirable in certain embodiments. Therefore, Applicant respectfully submits that independent claims 1, 10, 19 and 30 are patentably distinguished over the cited references.

Turning then to the rejection over Shimada '637, and specifically to the location of the polyamide material (309, Fig. 20(d)). The Office Action notes that Shimada '637 does not teach the material located at an interior portion of the mirror, but only at a concave portion of the

exterior of the mirror. In response, as amended above, independent claims 1, 10, 19, and 30 reach recite a mirror having an interior concave portion, said portion filled with a non-atmospheric material. Therefore, Applicant respectfully submits that the claims are further patentable distinguished over Shimada '637.

Therefore, for at least the foregoing reasons, Applicant respectfully submits that all independent claims are patentably distinguished over the prior art of record. None of the cited references, taken singly or in combination, offers any teaching or suggestion to ameliorate the deficiencies of Albrecht, Shimada '226 or Shimada '637 with respect to the independent claims. Further dependent claims, though each separately patentable, are offered as patentable for at least the same reasons as their respective underlying independent base claims.

In light of the foregoing, Applicant respectfully submits that all claims recite patentable subject matter, and kindly solicits entry of the above amendment, and an early and favorable indication of allowability of all claims. If the Examiner has any reservation in allowing the claims, and believes that a telephone interview would advance prosecution, he is kindly requested to telephone the undersigned at his earliest convenience

Respectfully submitted,



David J. Torrente
Registration No. 49,099

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343

DJT:ar